

REMARKS**I. Introduction**

In response to the Office Action dated March 21, 2007, Applicants have canceled claims 11, 12, and 14. No claims have been amended. In view of the following remarks, Applicants respectfully submit that all pending claims are in condition for allowance.

II. Claim Rejections Under 35 U.S.C. §§ 102 and 103

Claims 11 and 12 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent Application Publication No. 2003/0143129 to Rabellino. Claims 1 – 3, 11, and 12 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Bruck (DE 10065306.5) in view of Rabellino. Claims 7 and 8 stand rejected under § 103(a) as allegedly being unpatentable over Bruck in view of Rabellino and further in view of Kim. Claim 14 stands rejected under § 103(a) as allegedly being unpatentable over Rabellino in view of U.S. Patent No. 6,080,059 to Kim. Applicants traverse these rejections for at least the following reasons.

Claims 11, 12, and 14 have been canceled by this amendment. Accordingly, the rejections of these claims are now moot.

Independent claims 1 recites, among other things, a fuel cell comprising an air purifying apparatus which comprises a first pollutant-removing means that oxidizes a pollutant in the air and a second pollutant-removing means that adsorbs and removes the pollutant, wherein the second pollutant-removing means adsorbs and removes the pollutant after the pollutant has been oxidized. The Examiner admits that Bruck fails to disclose these features, and relies on Rabellino to overcome this deficiency.

Rabellino is directed to a purification system. The Examiner asserts that it would have been obvious to one of ordinary skill in the art to modify Bruck to include the teachings of Rabellino in order to further purify the air by removing carbon dioxide, thereby improving the

efficiency of the fuel cell. However, even if Rabellino did disclose an adsorption unit that adsorbs and removes the pollutant after the pollutant has been oxidized, there is no motivation or suggestion to modify Bruck as asserted by the Examiner. It is submitted that the Examiner is using improper hindsight (i.e., relying on Applicants disclosure) to arrive at the claimed fuel cell by combining features of Bruck and Rebellino. Bruck already appears to disclose a fuel cell module wherein the air treatment unit is used to remove carbon dioxide (paragraph [0034]). Accordingly, there is no suggestion in Bruck of a need to adsorb after a pollutant has been oxidized. Only Applicants' specification provides the requisite motivation.

As it is well known that every claim element must be disclosed or suggested by the prior art in order to establish a *prima facie* case of obviousness (*see, e.g.*, MPEP § 2143.03) and as the cited prior art references fail to do so, Applicants respectfully submit that claim 1 is patentable over the cited references. Further, the Examiner is directed to MPEP § 2143.01 under the subsection entitled "Fact that References Can Be Combined or Modified is Not Sufficient to Establish *Prima Facie* Obviousness", which sets forth the applicable standard:

A statement that modifications of the prior art to meet the claimed invention would have been [obvious] because the references relied upon teach that all aspects of the claimed invention were *individually* known in the art is *not* sufficient to establish a *prima facie* case of obviousness without some objective reason to combine the teachings of the references. (citing *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993)).

In the instant case, even assuming *arguendo* that Bruck and Rabellino "teach that all aspects of the claimed invention [are] individually known in the art", it is submitted that such a conclusion "is not sufficient to establish a *prima facie* case of obviousness" because there is no *objective* reason on the record to combine the teachings of the cited prior art in the manner suggested by the Examiner.

Claims 2, 3, 7, and 8 depend from claim 1. Under Federal Circuit guidelines, a dependent claim is nonobvious if the independent claim upon which it depends is allowable because all the limitations of the independent claim are contained in the dependent claims, *Harness International Inc. v. Simplimatic Engineering Co.*, 819 F.2d at 1100, 1108 (Fed. Cir. 1987). Accordingly, as the independent claims are patentable for at least the reasons set forth above, it is respectfully submitted that all dependent claims are also in condition for allowance. In addition, it is respectfully submitted that the dependent claims are patentable based on their own merits by adding novel and non-obvious features to the combination.

III. Conclusion

In view of the above amendments and remarks, Applicants submit that this application should be allowed and the case passed to issue. If there are any questions regarding this Amendment or the application in general, a telephone call to the undersigned would be appreciated to expedite the prosecution of the application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,
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